Calendar No. 712

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-500

PRESIDENTIAL CERTIFICATIONS ON EL SALVADOR

JULY 19 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S.J. Res. 208]

The Committee on Foreign Relations, to which was referred the joint resolution (S.J. Res. 208) with regard to Presidential certifications on conditions in El Salvador, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

BACKGROUND

In early December 1980, four American churchwomen were found murdered on the main highway from the San Salvador airport. A month later, in January 1981, two American land reform specialists working with the American Institute for Free Labor Development aiding Salvadoran peasant unions, were shot to death in the coffee shop of the Sheraton Hotel in San Salvador. The progress of the Government of El Salvador in bringing to justice those guilty of these crimes was made a one-time certifiable condition as part of Public Law 97-113, the International Security and Development Cooperation Act of 1981.

On May 9, 1981, five national guardsmen were arrested in connection with the murders of the churchwomen; they were indicted in February 1982. The President on January 28, as a requirement of the one-time certification, determined that progress was being made on these cases.

The Salvadoran court currently is conducting an investigation to determine whether the five guardsmen may properly be brought to trial. Lack of admissible evidence has been cited as the reason for the present stalemate in the case of the land reform specialists.

In addition to the above cases, free lance journalist John Sullivan disappeared in December 1980. Despite many inquiries, virtually no information has been produced. The Sullivan case was not part of the first certification.

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COMMITTEE ACTION

On July 1, the Committee considered Senate Joint Resolution 208 which was introduced by Senator Glenn on June 29. At the conclusion of the confirmation hearing of Secretary of State Shultz on July 14, the Committee agreed unanimously to report out favorably Senate Joint Resolution 208.

COMMITTEE COMMENTS

In recent months, there has been serious concern that no significant progress had been made in El Salvador on the cases of the slain Americans since the one-time presidential certification of January 28. The law's requirement for a one-time certification, rather than a certification every six months as required for the other categories, was formulated in the belief that by this point in time the cases should have been resolved and adjudicated. Given the present situation, the Committee believes that El Salvador's progress in all areas of human rights concerns and reforms is directly related to the certification process and therefore believes that the Salvadoran government's performance on the cases of the murdered Americans should become a certifiable condition in the presidential determination due on July 28.

The Committee notes that an identical measure in the House (H.J. Res. 494) was unanimously approved by the House Foreign Affairs Committee, and was adopted by the House of Representatives by a vote of 399–1. It also acknowledges the positive statement, by Secretary Shultz during his confirmation hearing, that ". . . I certainly would want to do everything I can to clarify the situation and see that responsible parties are brought to justice."

This measure truly reflects the will and sentiment of a great majority of the American people who desire that justice be done.

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Calendar No. 712

97TH CONGRESS
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SENATE

REPT. 97-500
Part 2

PRESIDENTIAL CERTIFICATIONS ON EL SALVADOR

JULY 20 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

ADDITIONAL VIEWS OF SENATOR HELMS

[To accompany S.J. Res. 208]

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ADDITIONAL VIEWS OF SENATOR JESSE HELMS OF NORTH CAROLINA TO SENATE JOINT RESOLUTION 208

On its face, S.J. Res. 208 would appear to be an initiative that no one could reasonably oppose. It certainly seeks an end which we all support, the ultimate resolution of the tragic deaths of the three American nuns, one other woman religious worker, and two AIFLD representatives, all of whom were killed in El Salvador in December of 1980. Also, one American journalist is missing. Amidst all the violence which has been wrought upon the people of that tragic country, these deaths shock the conscience of our own citizens and emphasize the horror of the conflict in El Salvador.

It goes without saying that I fully support the desire of the American people to see justice done in these matters. But I do not believe S.J. Res. 208 will be helpful in that regard.

The Resolution was reported on July 14 by the Committee on Foreign Relations for no more than five minutes as an unscheduled adjunct to a Committee vote on the nomination of George Shultz to be Secretary of State. In fact, S.J. Res. 208 was scheduled to be considered at a special hearing scheduled for the following day, Thursday, July 15, at noon. Thus, the Committee devoted almost no discussion to it and, in fact, precluded reasonable discussion of S.J. Res. 208 when the legislation was precipitously called up for a vote and approved without a dissenting vote.

A number of the Members of the Committee on Foreign Relations are said to have had misgivings about S.J. Res. 208—not about its stated goal, which I reiterate, we all share, but about unduly and perhaps unwisely inhibiting the certification process. Nonetheless, the Committee, in unseemly haste and with scarcely any consideration, voted out a bill which deserved careful consideration.

Proponents of the measure were obviously eager to rush its approval without any discussion at all; therefore, they were willing to forego the most nominal of courtesies by informing the Chairman of the Committee of their intention to bring it up virtually until they did so. Nor did they bother to inform the Chairman of the relevant Subcommittee on Western Hemisphere Affairs, who was managing a bill on the Senate floor in his role as Chairman of the Committee on Agriculture, Nutrition, and Forestry, even though they were surely aware that he desired to participate in the discussion.

There is, however, a more fundamental concern about this legislation: If the Committee had been given a chance to discuss the merits of this legislation, it would have been pointed out that S.J. Res. 208 rests on a very questionable framework, namely, the certification process. Senators should bear in mind that the original legislation for this process passed the Senate by a mere four-vote margin. There was considerable apprehension, so evident in that close vote, that the certifi-

cation requirements would not achieve their goal—that they would, instead, impede the policy of the United States as applied to the critical strategic situation in Central America.

I submit that events have borne out that apprehension. For, while the certification has the appearance of merely stipulating certain desiderata, the fact is that no such legislative prescription is needed. The Administration and Congress have made clear their shared support for the development of democracy in El Salvador and our contempt for excessive military violence.

It is worthy of mention, however, that the certification requirements make no reference whatever of atrocities committed by the terrorist guerrillas, even though these guerrillas in El Salvador are engaging in a brutal campaign of intimidation, terror and extermination of innocent people in El Salvador. Nonetheless, the same voices which urged us to adopt the certification requirement last year are now demanding that our Government require the Salvadoran Government to deal with the terrorists as equal partners in political negotiations. This is an incredible contradiction—that is given continued credibility by the peculiarities of the certification process and the distortions which it introduces into American foreign policy.

Furthermore, we are now seeing millions of U.S. taxpayer dollars spent to prop up a once-prosperous economy in El Salvador, an economy which is now on the verge of collapse. And what led to this collapse? Will anyone pretend that the economy of El Salvador has not been devastated by the programs of nationalization which have ravaged the banking, export and agricultural functions in that country? Indeed, there is precious little of El Salvador's economy left to expropriate. And yet, the certification process has elevated the so-called "reform" process—which is really a process of revolutionary expropriation and nationalization—to the level of an unchangeable and permanent symbol, written in stone, defiant of all the historical realities which reflect its basic weaknesses and contradictions.

One further question: What about the democratic elections urged by the certification process? On March 28, El Salvador's citizens emerged in unanticipated numbers, twice as many as the most optimistic predictions, to elect a government to replace the self-proclaimed Revolutionary Junta. It was this Junta—an unelected handful of oligarchs—which initiated the "reforms" immediately after seizing power, thus effectively putting the most productive lands and industries, and virtually all the country's financial resources, under the control of the government. Here I use the term "oligarch" advisedly, because it refers to the rule by the few, which is precisely what the Revolutionary Junta was. And so it was the "few" within the Junta, along with an understaffed, but overzealous U.S. Embassy contingent, which orchestrated the so-called reforms which ground El Salvador's economy to halt.

Nonetheless, on March 28, 1982, the people of El Salvador went to the polls to elect a truly representative government, and the results were impressive. But the proponents of the certification requirement for democratic progress in El Salvador were silent, after this victory for El Salvador's democracy and for American aims in this Hemisphere. Were they embarrassed by the remarkable turnout of El Salvador's voters? Are they now embarrassed by the functioning democracy

and the Constituent Assembly, merely because it appears to be "conservative"?

It must not be overlooked that the Contsituent Assembly is searching for ways to return El Salvador to the ranks of productive, free enterprise countries whose products can compete in the international marketplace. There are clear indications that the Constituent Assembly will probe the corruption and inefficiency of Revolutionary Junta's nationalization of banks, the export industry and the prime agricultural lands—actions which enriched certain insider groups under the Revolutionary Junta.

Would not such a proof constitute "progress"? Shouldn't the United States welcome efforts in El Salvador to make its economy efficient and free, so that American taxpayers will not be asked to prop up socialism, inefficiency and corruption?

There are many, many specifics which Americans would like to see achieved in El Salvador. We would like to see a victory over terrorism and guerrilla violence. We would like to see free markets which would give all Salvadorans more opportunity for work and for production. We would like to see real progress in the fight against socialism and corruption.

But these items are not included in the certification legislation. Thus, while they are far more fundamental than most of the items included in the certification statute, they take the back seat, both in the Government of El Salvador and in the U.S. State Department.

It is for this reason that I originally questioned the adoption of the certification legislation. Time has shown just how ill-advised the certification process has been.

Instead of the strategic threat to the United States in the Central American region, or trying to formulate a policy to counter such a threat, the limited manpower of the U.S. Government is consumed in meeting deadlines for the submission of reports—red tape, in all candor, which becomes the launching pad for emotional dispute. Note, for instance, the events of the past few days concerning report data required in the certification due on July 28.

Admittedly, precise assessments of circumstances in Central America is often impossible. U.S. efforts to help bring stability to that region are too often frustrated by self-appointed experts who, while no doubt unwillingly, nonetheless lend comfort to the forces of terrorism. I am reminded of the recent capture by the guerrillas of the Assistant Defense Minister of El Salvador, Colonel Castillo. Castillo, when first captured, had thought that his guerrilla captors were actually regular army units, because they were dressed in army uniforms. If Colonel Castillo could not distinguish the guerrillas from the army units they pretented to be, how could everyday observers, especially the international press corps, pretend to distinguish among all the perpetrators of violence within that country?

One thing seems clear: it is the stated policy of the guerrillas to wreak havoc in El Salvador; it is the policy of the El Salvadoran Government to extinguish the guerrilla threat and restore peace and harmony to the people of El Salvador in a democratic environment. But no certification requirement can adequately address that goal—only the common sense of legislators dealing with the day-to-day sit-

uation through policymakers in our country and abroad can do so adequately.

Had all the Senators in this body assembled all their desires for El Salvador and put them into a list embodied in certification requirements, the Governments of the United States and El Salvador would be spending all their time in submitting reports and formulating policies aimed at fulfilling the copious and often contradictory certification requirements alone, instead of the strategic threat in the regions. A few existing requirements have already shown how contradictory the requirements are. For instance, they state the desire for progress towards democratic institutions in El Salvador; in actuality, we have that progress in the results of the Constitutent Assembly on March 28. However, the Constitutent Assembly, taking stock from the devastation wrought in the economy by the expropriations, is seeking ways to restore confidence in the agricultural sector, and as the same time to preserve the rights of new landowners to land along with the rights of former owners to compensation. But that move, insofar as it embodies a move away from socialism and towards free enterprise, is opposed by many who clamored for the certification process. El Salvador can have any government it wants, they imply, so long as it is socialist. Must the United States demand not only that the Salvadorans vote, but that they vote they want we want them to, before they can expect our support?

Let me reiterate, in conclusion that the desire for the speedy resolution of the tragic matters, mentioned at the outset of these Additional Views, is a desire held by every Senator and, no doubt, by all Americans familiar with the situation in El Salvador. However, that desire does not automatically lead prudent legislators to a bureaucratic certification process as a best means of achieving such a goal. In fact, to incorporate such a requirement into existing legislation would serve only to distort further American policy toward El Salvador, a signal that would ill serve this body, or our country.

I sincerely believe that the Senate should reject S.J. Res. 208.

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